

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

SETH PATRICK ROSS and)
ELIZA ROSS,)
Plaintiffs,)
vs.)
FRANK KOPOCS and COVENANT)
PARTNERS TRANSPORTATION,)
INC.,)
Defendants.)

) **Civil Action No. 1:14-cv-60**

DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION
FOR PROTECTIVE ORDER AND/OR MOTION TO QUASH SUBPOENA
TO PRODUCE DOCUMENTS, INFORMATION OR OBJECTS OR
TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

Come the defendants, by and through counsel, and respond in opposition to the Motion for Protective Order and/or Motion to Quash Subpoena filed by *pro se* witness, Michael Wieber, in response to a document production subpoena issued and served upon Verizon Wireless to produce the address for witness Michael Wieber as the account holder for cellular telephone number 863-206-7672. In support of their response in opposition to the motion, the defendants state as follows:

1. This lawsuit arises from a collision between two tractor-trailers on February 14, 2013 at 1:20 a.m.
2. 9-1-1 records obtained from the McMinn County E-911 office reveal that Michael Wieber called McMinn County E-911 to report the collision using cellular telephone number 863-206-7672.
3. The plaintiffs identified Michael Wieber as a witness with knowledge of the motor vehicle collision their initial disclosures pursuant to Rule 26 of the *Federal Rules of Civil*

Procedure. However, the plaintiff had only Mr. Wieber's telephone number and did not have or otherwise produce an address for Mr. Wieber.

4. That counsel for the defendant contacted Michael Wieber using cellular telephone number 863-206-7672 to determine whether or not he was an eyewitness to the collision. During that conversation Michael Wieber provided facts based on personal knowledge and experience concerning the collision which make it necessary to schedule and secure his deposition pursuant to the provisions of Rules 28 and 30 of the *Federal Rules of Civil Procedure*. However, during that telephone conversation, Mr. Wieber refused to provide his address and would not provide any information whatsoever concerning his whereabouts.

5. Therefore, counsel for the defendants issued a subpoena to Verizon Wireless in order to obtain the address for Mr. Wieber by virtue of his cellular telephone account with Verizon Wireless under the number 863-206-7672.

6. Counsel for the defendant has no other means to locate the witness's address in order to issue a deposition subpoena to secure his attendance for a deposition.

WHEREFORE, the documents requested through the Verizon Wireless subpoena are material, relevant, not privileged, not confidential and are calculated to lead to discoverable evidence contrary to the assertions of Mr. Wieber and the defendants request that the Court overrule the motion by Micheal Wieber accordingly.

Respectfully submitted,

TRAMMELL, ADKINS & WARD, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on **January 15, 2015**, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the court's electronic filing system.

TRAMMELL, ADKINS & WARD, P.C.

By: s/Terrill L. Adkins
Terrill L. Adkins